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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-4364-14T4

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

VERE D. CANNONIER,

Defendant-Appellant.

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Argued November 28, 2016 – Decided December 20, 2016

Before Judges Nugent and Haas.

On appeal from Superior Court of New Jersey,  
Law Division, Atlantic County, Indictment No.  
14-02-0418.

Joshua D. Sanders, Assistant Deputy Public  
Defender, argued the cause for appellant  
(Joseph E. Krakora, Public Defender, attorney;  
Solmaz F. Firoz, Assistant Deputy Public  
Defender, on the brief).

John J. Lafferty, IV, Special Deputy Attorney  
General/Acting Assistant Prosecutor, argued  
the cause for respondent (Diane Ruberton,  
Acting Atlantic County Prosecutor, attorney;  
Brett Yore, Special Deputy Attorney  
General/Acting Assistant Prosecutor, of  
counsel and on the brief).

PER CURIAM

Defendant Vere D. Cannonier appeals from a judgment of conviction entered after he pled guilty to second-degree unlawful possession of a weapon, N.J.S.A. 2C:39-5(b), for which he was sentenced to a five-year custodial term with three and one-half years of parole ineligibility. The charge followed an incident in which law enforcement officers found a handgun beneath the driver's seat of a vehicle occupied by defendant and three co-defendants. During the plea colloquy, conducted in the presence of co-defendants and their attorneys, defendant testified he alone possessed the handgun, and co-defendants had no knowledge that he possessed it.

Defendant possessed the handgun on January 13, 2014, when "An Act Concerning the Possession of Certain Firearms," L. 2013, c. 117 (the Act), was in effect. The Act became effective August 8, 2013, and expired February 5, 2014. The Act provided in pertinent part:

1. Any person who has in his possession a handgun in violation of subsection b. of N.J.S. 2C:39-5 or a rifle or shotgun in violation of subsection c. of N.J.S. 2C:39-5 on the effective date of this act may retain possession of that handgun, rifle, or shotgun for a period of not more than 180 days after the effective date of this act. During that time period, the possessor of that handgun, rifle, or shotgun shall:

- (1) transfer that firearm to any person lawfully entitled to own or possess it; or
- (2) voluntarily surrender that firearm pursuant to the provision of N.J.S.A. 2C:39-12.

[L. 2013, c. 117.]

Defendant argues on appeal that in view of the Act he did not commit a crime when he possessed the handgun on January 13, 2014. He further argues he was not required to establish he possessed the firearm on August 8, 2013, the effective date of the Act, because the State had the burden of proving his guilt beyond a reasonable doubt. Lastly, he contends he was unable to comply with the Act following his arrest because the arresting officers seized the handgun.


The State responds that the amnesty period provided in the Act was not intended to decriminalize N.J.S.A. 2C:39-5(b), the weapons offense committed by defendant. The State contends to hold otherwise would be contrary to legislative intent.

Neither defendant nor anyone else raised any issue concerning the Act during defendant's plea colloquy. More significantly, defendant never filed a motion to withdraw his guilty plea. Accordingly, we remand this matter to the trial court to permit defendant to file a motion to withdraw his guilty plea. Should he do so, the trial court, in the first instance, will have the opportunity to evaluate the motion under the appropriate standard

of review and consider, among all other relevant factors,  
defendant's argument concerning the Act.

Remanded to permit defendant to file a motion to withdraw his  
guilty plea. We do not retain jurisdiction.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION